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SENATE BILL 444

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO INSTRUCTIONAL MATERIAL; ELIMINATING THE MULTIPLE LIST; GIVING MORE AUTHORITY TO LOCAL SCHOOL BOARDS AND OTHER EDUCATIONAL ENTITIES; ENSURING THAT STATE FUNDS ARE NOT USED TO PURCHASE MATERIALS OF A SECTARIAN, PARTISAN OR DENOMINATIONAL CHARACTER OR A RELIGIOUS NATURE; LOWERING THE PERCENTAGE DISTRIBUTION OF ESTIMATED ENTITLEMENT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-15-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 206, as amended) is amended to read:

"22-15-2. DEFINITIONS. -- As used in the Instructional Material Law:

A. "division" or "bureau" means the instructional material bureau in the department of education;

underscored material = new
[bracketed material] = delete

1 B. "director" or "chief" means the chief of the
2 bureau;

3 C. "instructional material" means school textbooks
4 and other educational media that are used as the basis for
5 instruction, including combinations of textbooks, learning
6 kits, supplementary materials and electronic media;

7 [~~D.~~ "~~multiple list~~" means a written list of those
8 ~~instructional materials approved by the state board;~~

9 E.] D. "membership" means the [~~total~~] average
10 enrollment of qualified students on the fortieth, [~~day~~]
11 eightieth and one hundred twentieth days of the prior school
12 year entitled to the free use of instructional material
13 pursuant to the Instructional Material Law; and

14 [~~F.~~] E. "additional pupil" means a pupil in a
15 school district's, state institution's, [~~or~~] private school's
16 or adult basic education center's current year's certified
17 forty-day membership above the number certified in the school
18 district's, state institution's, [~~or~~] private school's or adult
19 basic education center's prior year's [~~forty-day~~] membership. "

20 Section 2. Section 22-15-4 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 208, as amended) is amended to read:

22 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
23 [~~regulations~~] rules of the state board, the bureau shall:

24 A. administer the provisions of the Instructional
25 Material Law;

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B. enforce [~~regulations~~] rules for the handling, safekeeping and distribution of instructional material and instructional material funds and for inventory and accounting procedures to be followed by school districts, state institutions, private schools and adult basic education centers pursuant to the Instructional Material Law;

C. withdraw or withhold the privilege of participating in the free use of instructional material in case of any violation of or noncompliance with the provisions of the Instructional Material Law or any [~~regulations~~] rules adopted pursuant thereto; [~~and~~

~~D. enforce regulations relating to the use and operation of instructional material depositories in the instructional material distribution process]~~

D. enforce rules that require local school boards to implement a process that ensures that parents and other community members are involved in the instructional material review process;

E. ensure that instructional material purchased by private schools are not of a sectarian, partisan or denominational character or a religious nature by requiring private schools to submit a list with titles and a brief summary of content of all instructional material purchased with state instructional material funds; and

F. require an annual report from each local school

1 board, state institution, private school or adult basic
2 education center that acquires instructional material pursuant
3 to the Instructional Material Law."

4 Section 3. Section 22-15-5 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 209, as amended) is amended to read:

6 "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

7 A. The state treasurer shall establish a fund to be
8 known as the "instructional material fund".

9 B. The instructional material fund shall be used
10 for the purpose of paying for the cost of purchasing
11 instructional material pursuant to the Instructional Material
12 Law. Transportation charges for the delivery of instructional
13 material to a school district, a state institution, a private
14 school as agent or an adult basic education center and
15 emergency expenses incurred in providing instructional material
16 to students may be included as a cost of purchasing
17 instructional material. Charges for rebinding of used
18 instructional ~~[materials that appear on the multiple list~~
19 ~~pursuant to Section 22-15-8 NMSA 1978]~~ material may also be
20 included as a cost of purchasing instructional material."

21 Section 4. Section 22-15-8 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 212, as amended) is amended to read:

23 "22-15-8. ~~[MULTIPLE LIST]~~ SELECTION OF INSTRUCTIONAL
24 MATERIAL. --

25 ~~[A. The state board shall adopt a multiple list to~~

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[bracketed material] = delete

1 ~~be made available to students pursuant to the Instructional~~
2 ~~Material Law. The state board shall ensure that parents and~~
3 ~~other community members are involved in the adoption process at~~
4 ~~the state level.~~

5 B.] Pursuant to the provisions of the Instructional
6 Material Law, each local school [~~district~~] board, state
7 institution, private school as agent or adult basic education
8 center may select instructional material for the use of its
9 students; [~~from the multiple list adopted by the state board~~]
10 provided that none of the instructional material purchased is
11 of a sectarian, partisan or denominational character or a
12 religious nature. Local school boards shall give written
13 notice to parents and other community members and shall invite
14 parental involvement in the [~~adoption~~] selection process at the
15 school district level. Local school boards shall also give
16 public notice, which notice may include publication in a
17 newspaper of general circulation in the school district."

18 Section 5. Section 22-15-9 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 213, as amended) is amended to read:

20 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
21 MATERIAL. --

22 A. On or before July 1 of each year, the department
23 of education shall allocate to each school district, state
24 institution or private school not less than [~~ninety~~] seventy-
25 five percent of its estimated entitlement as determined from

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1 the estimated [forty-day] membership for the next school year.
2 A school district's, state institution's or private school's
3 entitlement is that portion of the total amount of the annual
4 appropriation less a deduction for a reasonable reserve for
5 emergency expenses that its [forty-day] membership bears to the
6 [forty-day] membership of the entire state. For the purpose of
7 this allocation, additional pupils shall be counted as six
8 pupils. The allocation for adult basic education shall be
9 based on a full-time equivalency obtained by multiplying the
10 total previous year's enrollment by .25.

11 B. On or before January 15 of each year, the
12 department of education shall recompute each entitlement [using
13 the forty-day membership for that year, except for adult basic
14 education] and shall allocate the balance of the annual
15 appropriation adjusting for any over- or under-estimation made
16 in the first allocation.

17 ~~[C. An amount not to exceed thirty percent of the~~
18 ~~allocations attributed to each local school district, state~~
19 ~~institution or adult basic education center may be used for~~
20 ~~instructional material not included on the multiple list~~
21 ~~provided for in Section 22-15-8 NMSA 1978. Adult basic~~
22 ~~education centers may expend up to one hundred percent of their~~
23 ~~instructional material funds for items that are not on the~~
24 ~~multiple list.~~

25 ~~D.]~~ C. The department of education shall establish

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[bracketed material] = delete

1 procedures for the distribution of funds directly to ~~[local]~~
2 school districts, state institutions and adult basic education
3 centers. The department of education shall distribute funds to
4 private schools on a reimbursement basis for instructional
5 material; ~~[included on the multiple list provided for in~~
6 Section 22-15-8 NMSA 1978] provided that none of the
7 instructional material purchased is of a sectarian, partisan or
8 denominational character or a religious nature.

9 [E.] D. A school district, state institution or
10 adult basic education center that has funds remaining for the
11 purchase of instructional material at the end of the fiscal
12 year shall retain those funds for expenditure in subsequent
13 years. Any balance remaining in an instructional material
14 account of a private school at the end of the fiscal year shall
15 remain available for reimbursement by the department of
16 education for instructional material purchases in subsequent
17 years. "

18 Section 6. Section 22-15-12 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 216, as amended) is amended to read:

20 "22-15-12. ANNUAL REPORT. -- Annually, at a time specified
21 by the department of education, each local school board ~~[of a~~
22 ~~school district]~~ and each governing authority of a state
23 institution, private school or adult basic education center
24 acquiring instructional material pursuant to the Instructional
25 Material Law shall file a report with the department of

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1 education that includes an accurate record of all instructional
2 material purchased, including cost records, on forms and by
3 procedures prescribed by the department. "

4 Section 7. Section 22-15-13 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 217, as amended by Laws 1993, Chapter 156,
6 Section 6 and also by Laws 1993, Chapter 226, Section 44) is
7 amended to read:

8 "22-15-13. CONTRACTS WITH PUBLISHERS. --

9 A. ~~[The state]~~ A local school board, state
10 institution, private school as agent or adult basic education
11 center may enter into a contract with a publisher or a
12 publisher's authorized agent for the purchase and delivery of
13 instructional material ~~[selected from the multiple list adopted~~
14 ~~by the state board]~~.

15 B. Payment for instructional material purchased by
16 ~~[the state]~~ a local school board, state institution, private
17 school as agent or adult basic education center shall be made
18 only upon performance of the contract and the delivery and
19 receipt of the instructional material.

20 C. Each publisher or publisher's authorized agent
21 contracting with ~~[the state]~~ a local school board, state
22 institution, private school as agent or adult basic education
23 center for the sale of instructional material shall agree:

24 ~~[(1) to file a copy of each item of~~
25 ~~instructional material to be furnished under the contract with~~

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1 ~~the state board with a certificate attached identifying it as~~
2 ~~an exact copy of the item of instructional material to be~~
3 ~~furnished under the contract;~~

4 ~~(2)~~ (1) that the instructional material
5 furnished pursuant to the contract shall be of the same quality
6 in regard to paper, binding, printing, illustrations, subject
7 matter and authorship as the ~~[copy filed with the state board]~~
8 copies sold to other states; and

9 ~~[(3)]~~ (2) that if instructional material under
10 the contract is sold elsewhere in the United States for a price
11 less than that agreed upon in the contract with the ~~[state]~~
12 local school board, state institution, private school as agent
13 or adult basic education center, the price to the state shall
14 be reduced to the same amount.

15 D. Each contract executed for the acquisition of
16 instructional material shall include the right of the local
17 school board, state institution, private school as agent or
18 adult basic education center to transcribe and reproduce
19 instructional material in media appropriate for the use of
20 students with visual impairment who are unable to use
21 instructional material in conventional print and form.
22 Publishers of adopted textbooks shall be required to provide
23 those materials to the local school board, state institution,
24 private school as agent or adult basic education center in an
25 electronic format specified by the educational entity that is

1 readily translatable into braille and can be used for large
2 print or speech access within a time period specified by the
3 educational entity."

4 Section 8. REPEAL. --Section 22-15-11 NMSA 1978 (being
5 Laws 1967, Chapter 16, Section 215, as amended) is repealed.

6 Section 9. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.

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